

CITY OF ROSENBERG

REGULAR CITY COUNCIL MEETING MINUTES

On this the 19th day of January, 2016, the City Council of the City of Rosenberg, Fort Bend County, Texas, met in a Regular Session, in the Rosenberg City Hall Council Chamber, located at 2110 4th Street, Rosenberg, Texas.

Present: Cynthia A. McConathy, Mayor
William Benton, Councilor at Large, Position 1
Amanda J. Barta, Councilor at Large, Position 2
Jimmie J. Pena, Councilor, District 1
Susan Euton, Councilor, District 2
Lisa Wallingford, Councilor, District 3
Lynn Moses, Councilor, District 4

Staff Present: John Maresh, Interim City Manager
Scott M. Tschirhart, City Attorney
Linda Cernosek, City Secretary
Jeff Trinker, Executive Director of Support Services
Joyce Vasut, Executive Director of Administrative Services
Travis Tanner, Executive Director of Community Development
Charles Kalkomey, City Engineer
Dallis Warren, Police Chief
Justin Rodgers, Police Officer
Wade Goates, Fire Chief
Darren McCarthy, Parks and Recreation Director
Lydia Acosta, Recreation Programs Coordinator
Rigo Calzoncin, Public Works Director
James Lewis, Director of Technology
Jenny Pavlovich, Communications Manager
Kaye Supak, Executive Assistant

Call to order: City Hall Council Chamber

Mayor McConathy called the meeting to order at 7:00 p.m.

Invocation and Pledge of Allegiance.

Reverend Frankie Rodriguez, Living Stones Church, Sugar Land gave the invocation and led the pledge of allegiance to the flag.

Presentation of Certificates of Appreciation to 2015 Rosenberg Christmas Nights Volunteers.

Lydia Acosta, Recreation Programs Coordinator, presented Certificates of Appreciation to the following 2015 Rosenberg Christmas Nights Volunteers:

- Girl Scout Troop 29002
- Girl Scout Troop 29064
- Jenny Pavlovich
- Whataburger
- Julia Worley

Announcements.

- January 20, 2016, is the first day to file an Application for a Place on the Ballot for May elections of Council Members in Districts 1, 2, 3, and 4. February 19, 2016 is the last day to file.
- The Rosenberg Railroad Museum is having a campaign on their Facebook page for citizens to vote for a grant for a caboose.

GENERAL COMMENTS FROM THE AUDIENCE.

Citizens who desire to address the City Council with comments of a general nature will be received at this time. Each speaker is limited to three (3) minutes. In accordance with the Texas Open Meetings Act, the City Council is restricted from discussing or taking action on items not listed on the agenda. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

COMMENTS FROM THE AUDIENCE FOR CONSENT AND REGULAR AGENDA ITEMS.

Citizens who desire to address the City Council with regard to matters on the Consent Agenda or Regular Agenda will be received at the time the item is considered. Each speaker is limited to three (3) minutes. Comments or discussion by the City Council Members will only be made at the time the agenda item is scheduled for consideration. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

CONSENT AGENDA

1. Review of Consent Agenda.

All Consent Agenda items listed are considered to be routine by the City Council and may be enacted by one (1) motion. There will be no separate discussion of Consent Agenda items unless a City Council Member has requested that the item be discussed, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Regular Agenda.

A. Consideration of and action on Regular Meeting Minutes for December 15, 2015, and Regular Meeting Minutes for January 05, 2016.

B. Consideration of and action to authorize the proposed installation of speed humps on Longhorn Drive.

EXECUTIVE SUMMARY

This item has been included on the Agenda to allow City Council to consider approval of a request regarding the installation of speed humps on Longhorn Drive. Included for reference is the City's Policies and Procedures for Traffic Calming, Speed Hump Installation and Removal (Policy), a map that includes the location of the proposed speed humps, the Notification/Evidence of Support Application, and the quote for the installation of speed humps using hot-mix asphalt.

Within the Policy, under B3 in Item II entitled Installation of Speed Humps by Citizen Request, the section states in part: "...There must be at least 75% of the property owners and residents in support of the installation in order to proceed..." More specifically, there are twenty-two (22) residential homes located on Longhorn Drive. Eighteen (18) of the homes stated they are in support of the speed hump installations, while four (4) did not respond, or provide a definitive answer. This equates to approximately 82% of the property owners being in support. Staff has determined that in this case, the information submitted does meet this 75% threshold.

Upon approval of the request, staff will proceed with the installation of two (2) asphalt speed humps on Longhorn Drive.

C. Consideration of and action to authorize the proposed installation of speed humps on Vera Cruz Drive.

EXECUTIVE SUMMARY

This item has been included on the Agenda to allow City Council to consider approval of a request regarding the installation of speed humps on Vera Cruz Drive. Included for reference are the City's Policies and Procedures for Traffic Calming, Speed Hump Installation and Removal (Policy- please refer to previous Agenda item), a map that includes the location of the proposed speed humps, the Notification/Evidence of Support Application, and the quote for the installation of speed humps using hot-mix asphalt.

Within the Policy, under B3 in Item II entitled Installation of Speed Humps by Citizen Request, the section states in part: "...There must be at least 75% of the property owners and residents in support of the installation in order to proceed..." More specifically, there are thirty-seven (37) residential homes located on Vera Cruz Drive. Twenty-eight (28) of the homes stated they are in support of the speed hump installations, while nine (9) did not respond, or provide a definitive answer. This equates to approximately 75% of the property owners being in support. Staff has determined that in this case, the information submitted does meet this 75% threshold.

Upon approval of the request, staff will proceed with the installation of three (3) asphalt speed humps on Vera Cruz Drive.

- E. **Consideration of and action on Ordinance No. 2016-06, an Ordinance amending the Code of Ordinances by adding to Section 28-71 of Division 4 of Article II of Chapter 28 thereof, a new prima facie speed limit of forty-five (45) miles per hour along a portion of FM 2977 from the intersection of FM 762 to a point southwest of the intersection of Reading Road, a distance of approximately 0.400 miles; making certain findings; authorizing the placement of speed limit signs along such street; providing a penalty for violation of any provision hereof; providing an effective date; and, providing for severability.**

EXECUTIVE SUMMARY

The City received notice from the Texas Department of Transportation (TxDOT) regarding a request to set a speed zone along a specific portion of FM 2977 (Minonite Road). TxDOT conducted a speed study along FM 2977 and has recommended a speed limit of forty-five (45) miles per hour along this roadway from its intersection with FM 762 to a point just southwest of Reading Road.

Ordinance No. 2016-06 will establish said speed zone along FM 2977. Staff recommends approval of Ordinance No. 2016-06 as presented.

ACTION

Motion by Councilor at Large, Position 1 William Benton, seconded by Councilor, District 2 Susan Euton to approve Consent Agenda items A, B, C, and E.

Vote: 7 - 0 Carried - Unanimously

REGULAR AGENDA

2. *This item was formerly item D on the Consent Agenda.*

Consideration of and action on Ordinance No. 2016-07, an Ordinance granting consent to Fort Bend County Municipal Utility District No. 167 (which includes Brazos Town Center) for the sale and issuance of Unlimited Tax Bonds, Series 2016, in an amount not to exceed \$2,385,000.

EXECUTIVE SUMMARY

Attached for your consideration is Ordinance No. 2016-07 granting the City's consent to Fort Bend County Municipal Utility District No. 167 (MUD No. 167), to sell Unlimited Tax Bonds, Series 2016, in an amount not to exceed \$2,385,000. MUD No. 167 is located within the City's Corporate Limits. The development is generally identified as Brazos Town Center.

City Council consented to the creation of MUD No. 167 on June 28, 2005, through Ordinance No. 2005-14 which was originally proposed as a 121.81 acre development. A Development Agreement between the City and A-S 70 HWY 59-FM762, LP, was executed on December 07, 2004; a Water Supply and Wastewater Services Agreement was executed on December 06, 2005; and an Economic Development Agreement was executed on August 08, 2006. City Council approved Ordinance No. 2006-06 consenting to the addition of 173.8037 acres into MUD No. 167 on April 04, 2006, and Ordinance No. 2007-03 consented to the addition of 118.7858 acres into MUD No. 167 on February 06, 2007, for a total of approximately 414 acres.

This will be the sixth Unlimited Tax Bond sale for MUD No. 167.

- The first sale of Unlimited Tax Bonds was approved by City Council on July 01, 2008, through Ordinance No. 2008-20 in the amount of \$3,165,000.
- MUD No. 167's Tax Road Bond Anticipation Note was approved by City Council on November 18, 2008, through Ordinance No. 2008-48 in the amount of \$3,560,000.
- A Road Bond sale was approved by City Council on June 16, 2009, through Ordinance No. 2009-19 in the amount of \$7,000,000.
- The Texas Commission on Environmental Quality (TCEQ) issued an order approving the issuance of \$4,120,000 in bonds on September 29, 2010. However, after the tax assessment values were released at that time, MUD No. 167 revised the bond issuance to \$3,000,000. The second Unlimited Tax Bonds sale, in the amount of \$3,000,000, was approved by City Council on November 16, 2010, through Ordinance No. 2010-28, deferring the remaining \$1,120,000 to a future sale.
- The second part of the previous sale of Unlimited Tax Bonds was approved by City Council on April 17, 2012, through Ordinance No. 2012-17 in the amount of \$1,120,000 for a total of the TCEQ approved \$4,120,000.
- The third sale was approved by City Council on November 20, 2012, through Ordinance No. 2012-43 in the amount of \$3,000,000.
- The fourth sale of Unlimited Tax Bonds was approved by City Council on May 04, 2014, through Ordinance No. 2014-20 in the amount of \$3,725,000.
- The fifth sale of Unlimited Tax Bonds was approved by City Council on April 21, 2015, through Ordinance No. 2015-11 in the amount of \$3,575,000.
- City Council approved Unlimited Tax Refunding Bonds, Series 2015A, on June 02, 2015, in the amount of \$3,200,000.

Much of the submission documentation provided by MUD No. 167 for this proposed sale such as the Bond Order Authorizing the Issuance of Bonds by MUD No. 167, the Preliminary Official Statement/Notice of Sale, Resolution

Authorizing the Issuance of Bonds by MUD No. 167, Cash Flow Analysis, Debt Fund Schedule, Summary of Costs, along with minute excerpts and related Ordinances are available for review in the City Secretary's Office.

Staff has reviewed the documentation and found it to be in compliance with applicable City Ordinances. Staff is recommending approval of Ordinance No. 2016-07 thus authorizing the sale of Unlimited Tax Bonds, Series 2016, in an amount not to exceed \$2,385,000.

KEY DISCUSSION POINTS

Charles A. Kalkomey, P.E., City Engineer, explained that there is a bond limit in place, which will cap the amount of bonds that can be issued for the area. David Oliver, from Allen Boone Humphries Robinson LLP, which represents the MUD No. 167, explained that the residential section 5 is under development with townhomes, making the area approximately 90-95% developed. The tax rate was effectively lowered this year due to some utilities being paid off, and the tax rate would be finished and start to decline upon completion of the remainder of development.

ACTION

Motion by Councilor, District 2 Susan Euton, seconded by Councilor, District 1 Jimmie J. Pena to approve Ordinance No. 2016-07, an Ordinance granting consent to Fort Bend County Municipal Utility District No. 167 for the sale and issuance of Unlimited Tax Bonds, Series 2016, in an amount not to exceed \$2,385,000.

Vote: 7 - 0 Carried - Unanimously

3. *This item was formerly item 2 on the agenda.*

Consideration of and action on Resolution No. R-2097, a Resolution awarding a bid regarding the lease of real property (generally located at 1819 Avenue F) for the specific public purpose of operating a museum dedicated to preserving railroad history and artifacts, and, authorizing the Interim City Manager to negotiate and execute, for and on behalf of the City, appropriate documents and/or lease agreements regarding same.

EXECUTIVE SUMMARY

On Wednesday, January 13, 2016, one (1) bid was received for the lease of City-owned property generally located at 1819 Avenue F for the specific public purpose of operating a museum dedicated to preserving railroad history and artifacts. Public Notice for the proposed lease was published in the Fort Bend Herald on December 28, 2015, and January 03, 2016, and was placed on the City's website. The bid was opened and read as indicated on the attached bid tabulation form.

Staff recommends that the bid be awarded to the Rosenberg Railroad Museum, Inc., for the annual lease price of one dollar (\$1.00) per year, for a term of ninety-nine (99) years. Should City Council award the bid as recommended, the Resolution will be completed accordingly and the Offer to Lease Real Property submitted by Rosenberg Railroad Museum, Inc., will be attached to serve as Exhibit "A" to Resolution No. R-2097. Lease of the property to the museum helps to educate the public on the history of the railroad and its impact on the area, and the lease will be drafted to restrict use to museum purposes.

Staff recommends approval of Resolution No. R-2097, which will award said bid and provide authorization for the Interim City Manager to negotiate and execute all required documents necessary to facilitate a lease agreement for the specific public purpose of operating a museum dedicated to preserving railroad history and artifacts.

KEY DISCUSSION POINTS

Scott M. Tschirhart, City Attorney, explained that the City owns part of the property where the Railroad Museum is located. There is a Charter provision that prevents the City from donating the property to the museum, so a lease of the property is necessary in order for the museum to be able to borrow money to make ongoing improvements to the property. Should the Railroad Museum cease to exist, or should they decide to use the property for any other purpose, the land ownership would revert back to the City immediately.

ACTION

Motion by Councilor, District 1 Jimmie J. Pena, seconded by Councilor, District 3 Lisa Wallingford to approve Resolution No. R-2097, a Resolution awarding a bid regarding the lease of real property (generally located at 1819 Avenue F) to the Rosenberg Railroad Museum, Inc., for the annual lease price of one dollar (\$1.00) per year, for a term of ninety-nine (99) years, for the specific public purpose of operating a museum dedicated to preserving railroad history and artifacts, and, authorizing the Interim City Manager to negotiate and execute, for and on behalf of the City, appropriate documents and/or lease agreements regarding same.

Vote: 7 - 0 Carried - Unanimously

4. *This item was formerly item 3 on the agenda.*

Consideration of and action on Resolution No. R-2092, a Resolution awarding Bid No. 2015-12 for a prefabricated and pre-assembled restroom unit for Macario Garcia Park; and, authorizing the Interim City Manager to negotiate and execute, for and on behalf of the City, appropriate documents and/or agreements regarding same.

EXECUTIVE SUMMARY

Bids were received on Wednesday, November 18, 2015, for Bid No. 2015-12 for a prefabricated and pre-assembled restroom unit for Macario Garcia Park. A total of two (2) bids were opened and tabulated as indicated on the attached bid summary form. Both bids exceeded the initial project budget of \$150,000.

On Tuesday, January 5, 2016, City Council approved Resolution No. R-2094, a Resolution authorizing an additional \$42,054 needed to complete the Macario Garcia Park Restroom Project. Staff recommends Bid No. 2015-12 be awarded to Wallis Concrete, LLC, for the base bid in the total amount of \$175,304.00 for a prefabricated and pre-assembled restroom unit for Macario Garcia Park. The contract time is one hundred and twenty (120) calendar days.

Staff recommends approval of Resolution No. R-2092, which will award Bid No. 2015-12 and provide authorization for the Interim City Manager to negotiate and execute all required documents necessary to facilitate the agreement. Should City Council award the bid as recommended, the proposal from Wallis Concrete, LLC, will be attached to serve as Exhibit "A" to Resolution No. R-2092. It should be noted that the bid award is contingent upon the bidder submitting the required Disclosure of Interested Parties form (Texas Ethics Commission Form 1295). This action is necessary to comply with H.B. 1295 for contracts entered into after January 01, 2016.

KEY DISCUSSION POINTS

Darren McCarthy, Parks and Recreation Director, read the Executive Summary, and explained that demolition and engineering costs are included in the bid price. John Maresh, Interim City Manager, added that the bid award would be contingent upon the bidder submitting the Disclosure of Interested Parties form 1295, as required by the Texas Ethics Commission.

ACTION

Motion by Councilor, District 1 Jimmie J. Pena, seconded by Councilor at Large, Position 2 Amanda J. Barta to approve Resolution No. R-2092, a Resolution awarding Bid No. 2015-12 to Wallis Concrete, LLC, for the base bid in the total amount of \$175,304.00, for a prefabricated and pre-assembled restroom unit for Macario Garcia Park; and, authorizing the Interim City Manager to negotiate and execute, for and on behalf of the City, appropriate documents and/or agreements regarding same.

Vote: 7 - 0 Carried - Unanimously

5. *This item was formerly item 4 on the agenda.*

Consideration of and action on Ordinance No. 2016-04, an Ordinance amending the Code of Ordinances by adding a new Subsection (z) to Section 6-361 of Article XIII of Chapter 6 thereof, establishing a new definition for digital billboard; amending Section 6-362.4 of Article XIII of Chapter 6 thereof, revising the Sign District Map; amending Subsection (a) of Section 6-363 of Article XIII of Chapter 6 thereof, allowing Digital Billboards; amending Subsection (b)(8) of Section 6-365 of Article XIII of Chapter 6 thereof, revising glare regulations; adding new Subsection (c)(4) to Section 6-365 of Article XIII of Chapter 6 thereof, establishing digital billboard sign standards; providing a penalty in an amount as provided in Section 1-13 of this Code for violation of any provision hereof; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith; and providing for severability.

EXECUTIVE SUMMARY

At the August 25, 2015 City Council Workshop meeting, a presentation was given by Lee Vela of Clear Channel Communications on digital billboards and was discussed by City Council. Per the direction of City Council to allow digital billboards with accompanying regulations, staff and the City Attorney have generally made the following amendments to Chapter 6, Article XIII (Sign Regulations) in coordination with Clear Channel and their legal team:

- The addition of a definition for "digital billboard";
- The ability to construct new digital billboards in accordance with provisions as specified;
- Revisions to the glare requirements, broadening what is allowed while still protecting operators of motor vehicles; and,
- Added provisions relating to digital billboards that specify location permitted, the removal of static billboards, the allocation of one space in the message rotation to City of Rosenberg content, sign size regulations, setback from public rights-of-way and residential uses, height, message duration, and brightness.

It should be noted that City staff and Clear Channel representatives had previously discussed a five (5) mile separation requirement for digital billboards. There have since been further discussions about a potential one (1) mile separation. The one (1) mile separation has been put in the ordinance for the time being; however, the separation requirement is a policy decision at the discretion of City Council. Staff will provide graphics demonstrating the impact of various separation requirements for digital billboards.

Should the amendments be adopted and the project approved, Clear Channel Communications has agreed to remove static signs at a 3:1 ratio pursuant to a conversion agreement, as defined in the Ordinance, and will be required to adhere to the provisions as adopted. City staff recommends approval of Ordinance No. 2016-04 contingent on Council's decision as to the separation requirement.

KEY DISCUSSION POINTS

Travis Tanner, Executive Director of Community Development, read the Executive Summary, presenting the options of a 5 mile separation, 3 mile separation, and 1 mile separation between digital billboards. After discussion, the majority of Council was in favor of a 3 mile separation between signs.

ACTION

Motion by Councilor, District 1 Jimmie J. Pena, seconded by Councilor at Large, Position 2 Amanda J. Barta to approve Ordinance No. 2016-04, an Ordinance amending the Code of Ordinances by adding a new Subsection (z) to Section 6-361 of Article XIII of Chapter 6 thereof, establishing a new definition for digital billboard; amending Section 6-362.4 of Article XIII of Chapter 6 thereof, revising the Sign District Map; amending Subsection (a) of Section 6-363 of Article XIII of Chapter 6 thereof, allowing Digital Billboards; amending Subsection (b)(8) of Section 6-365 of Article XIII of Chapter 6 thereof, revising glare regulations; adding new Subsection (c)(4) to Section 6-365 of Article XIII of Chapter 6 thereof, establishing digital billboard sign standards (including the revision of Subsection (c)(4)(f.) to contain a three (3) mile radius between signs); providing a penalty in an amount as provided in Section 1-13 of this Code for violation of any provision hereof; repealing all ordinances or parts of ordinances inconsistent or in conflict herewith; and providing for severability.

Vote: 5 - 2 Carried - Yeses: Mayor McConathy, Councilors Benton, Barta, Pena, and Moses. Noes - Councilors Euton and Wallingford.

6. *This item was formerly item 5 on the agenda.*

Consideration of and action on Resolution No. R-2096, a Resolution acknowledging the acceptance, by Special Warranty Deed, of certain real property generally described as Unrestricted Reserve "B", of R-27 Development, a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded under Slide No. 1110/B of the Plat Records of Fort Bend County, Texas.

EXECUTIVE SUMMARY

Towards the end of 2014, and again in 2015, the owner of vacant property on the east side 4th Street, across from City Hall, contacted City staff about potentially donating the property to the City. The property consists of 5.809 acres. Specifically, it is Unrestricted Reserve "B" of R-27 Development, platted in 1991 and attached for review.

At the time, staff responded that (1) a title report would need to be reviewed to ensure there are no liens or other issues and (2) that City Council must formally accept the deed. The property was deeded at the end of 2015 for tax purposes. This Agenda item provides for City Council to authorize acceptance of the deed/property.

A title report dated December 15, 2015 (attached for review), was provided by the owner and it appears there are no liens or other restrictions not already shown on the recorded plat. It should be noted the property is encumbered by Dry Creek and various easements, and the "unencumbered" portion is in the 100-year floodplain. However, this is a similar situation to existing City Hall. It is estimated that the base flood elevation is approximately two feet (2') above the property elevation itself (should the City ever want to put a building or buildings on it).

Because the City owns all adjoining land to the south and the subject property would otherwise have access challenges to 4th Street—despite having an access easement along the Creek, the bulk of the property is nearly 750' from 4th Street—the City is likely the most logical owner for the tract. There are a number of potential public uses for the property including possible future City facilities, parking, detention and drainage improvements. Acquisition of the property would likely benefit City Hall Options 2, 3, and 4 in the Facilities Master Plan, for example. The only downside to owning the property in the interim may be the responsibility of maintaining/mowing it; however, the majority of it appears wooded/natural vegetation and the City is already responsible for maintaining all of the other three (3) "quadrants" of the overall area to the west, southwest and south. Fort Bend County Drainage District would continue to maintain Dry Creek itself.

It was noticed that the deed mistakenly includes a previous City Manager's contact information; however, the City Attorney has reviewed and determined that does not affect the grantee, which is obviously the City of Rosenberg. It should be reiterated that this is at no cost to the City. Staff recommends approval of Resolution No. R-2096 authorizing the acceptance of the property.

KEY DISCUSSION POINTS

Travis Tanner, Executive Director of Community Development, gave an overview of the item, stating that the title report has been received and there are no liens or title issues on the property.

ACTION

Motion by Councilor at Large, Position 2 Amanda J. Barta, seconded by Councilor at Large, Position 1 William Benton to approve Resolution No. R-2096, a Resolution acknowledging the acceptance, by Special Warranty Deed, of certain real property generally described as Unrestricted Reserve "B", of R-27 Development, a subdivision in Fort Bend County, Texas, according to the map or plat thereof recorded under Slide No. 1110/B of the Plat Records of Fort Bend County, Texas.

Vote: 7 - 0 Carried - Unanimously

7. *This item was formerly item 6 on the agenda.*

Hold Executive Session to deliberate the potential purchase, exchange, lease or value of real property pursuant to Section 551.072 of the Texas Government Code; and, to deliberate the appointment, employment and evaluation of the City Manager pursuant to Section 551.074 of the Texas Government Code.

ACTION

Motion by Councilor, District 2 Susan Euton, seconded by Councilor, District 3 Lisa Wallingford to adjourn to Executive Session.

Vote: 7 - 0 Carried - Unanimously

8. *This item was formerly item 7 on the agenda.*

Adjourn Executive Session, reconvene Regular Session, and take action as necessary as a result of Executive Session.

Mayor McConathy adjourned the Executive Session and reconvened into Regular Session.

9. *This item was formerly item 8 on the agenda.*

Adjournment.

There being no further business, Mayor McConathy adjourned the meeting at 8:35 p.m.


Linda Cernosek, TRMC, City Secretary